

UNITED STATES DISTRICT COURT

for the
District of New Mexico

15 NOV 10 AM 9:23

CLERK-LAS CRUCES

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)2005 GMC Sierra bearing New Mexico Temporary
Dealer Tags 15D305666

Case No. 15-722MR

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

2005 GMC Sierra bearing New Mexico Temporary Dealer Tags 15D305666

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

2005 GMC Sierra bearing New Mexico Temporary Dealer Tags 15D305666

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 18, Section 1153	Offense committed within Indian Country
Title 18, Section 1112	Manslaughter

The application is based on these facts:
See attached affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Sworn to before me and signed in my presence.

Date: 10 Nov 2015

City and state: Las Cruces NM

Applicant's signature

Benjamin Saxey, Special Agent of the FBI

Printed name and title

Judge's signature

Gregory B. Wormuth

Printed name and title

U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

vs

Justin Bo Platta

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AFFIDAVIT

THE UNDERSIGNED, BEING DULY SWORN, DEPOSES AND SAYS THE FOLLOWING:

1) I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI). I have been employed by the FBI since January 2015. I am assigned to the Las Cruces Resident Agency, where my duties include the investigation of violent crimes that take place in Indian Country.

2) I submit this affidavit in support of an application for a Federal Search Warrant to search a 2005 GMC Sierra bearing New Mexico Temporary Dealer Tags 15D305666 (Truck). This affidavit contains facts known by me or told to me by other sworn law enforcement officers. The facts, articulated below, will show that there is probable cause to believe that Truck contains evidence of a potential vehicular homicide involving victim Isiah Kayitah (Kayitah), in violation of Title 18, Sections 1153 and 1112.

3) On November 2, 2015, FBI SAs Sarkozy and Saxey interviewed Stewart Klinekole (Klinekole) and Thomas Kazhe (Kazhe). On October 26, 2015, Klinekole and Kazhe were driving home from a work event southeast on White Mountain Drive Mescalero, New Mexico when they saw Truck had apparently crashed into a natural rock wall to the northeast side of the road. Klinekole and Kazhe believed that the crash had recently happened because there was smoke and dust in the air. An individual later identified as Justin Bo Platta (Platta) waived down Klinekole and Kazhe with

his cell phone light. Platta approached Kazhe and muttered something unintelligible. Platta was bleeding from his mouth and chin area. Klinekole and Kazhe believed that Platta was asking for help. Klinekole and Kazhe could smell alcohol. Klinekole and Kazhe told Platta that they were going to call the cops. Platta told Klinekole and Kazhe not to call the cops because he did not want to go to jail. Klinekole and Kazhe needed to drive to Highway 70 and then up the hill in order to receive cell phone reception.

4) As Klinekole and Kazhe drove southeast towards Highway 70, they saw an unknown male (UM) walking down the road in a southeast direction. The UM was wearing red "Beats" headphones, a gray sweatshirt and black pants. He was walking in a "normal" manner. Klinekole and Kazhe did not know if the UM was involved in the apparent crash.

5) As Klinekole and Kazhe continued to drive southeast towards Highway 70, they saw a person, later identified as Kayitah, lying in the middle of the road. Kazhe pulled his vehicle to the southwest side of the road in order to avoid running over Kayitah's body. Klinekole got out of the vehicle and approached the body. There was a pool of blood below Kayitah's head. Kayitah was not responsive. Klinekole and Kazhe continued down White Mountain Drive to Highway 70 and turned southwest. As they crested a hill, they were able to receive cell phone reception and Klinekole called the police.

6) On October 26, 2015 at approximately 11:58 p.m., BIA officer Colin Pilcher was dispatched to the scene of the accident after BIA Mescalero received the phone call from Klinekole. When Pilcher turned onto White Mountain Drive off of Highway 70, he saw Kayitah lying in the middle of the road. Kayitah looked lifeless with his eyes rolled behind his head. Pilcher saw no sign of him breathing. When Pilcher checked for a pulse, Kayitah started gurgling and his eyes were moving. Once Mescalero Apache Fire Rescue Battalion Chief James Lapaz Jr. arrived on scene, Pilcher went to the Truck wreckage about .6 of a mile up the road.

7) There was no one around the Truck. The vehicle was still running and the radio was on. Pilcher searched for identification and found a wallet on the driver's side floorboard. Inside the wallet was a driver's license belonging to Platta. Pilcher then turned off the radio and vehicle. Pilcher searched the immediate area and found no one. The vehicle had a broken rear axle, moderate damage to both sides of

the vehicle, front end damage and the windshield was cracked. No airbags were deployed. It appeared there was alcohol present in the vehicle at the time of the accident due to water marks in the interior and there was a smell of alcohol in the vehicle.

8) According to Pilcher's report, New Mexico State Police Officer Chance Hooper responded to the scene. Upon his arrival, it was determined that the accident involved criminal behavior. BIA Mescalero Police Officer James Satterfield located and arrested Platta at his residence for Intoxication. The Truck was towed to Downs Towing and Recovery, 2652 Highway 70 Ruidoso Downs, New Mexico 88346 on October 27, 2015 and has been locked and maintained for evidentiary purposes.

9) The site of the crash and location where Kayitah was found on White Mountain Drive, Mescalero, New Mexico, is known to lie within the exterior boundaries of the Mescalero Apache Reservation.

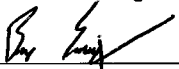
10) Kayitah and Platta are known to be enrolled members of the Mescalero Apache Indian Tribe.

11) Based on my training and experience, I believe that evidence relevant to a potential vehicular manslaughter may be present in the Truck including, but not limited to:

- Evidence of individuals who were in the Truck during the crash, including evidence that may assist in determining the identity of the driver
- Bodily fluids containing DNA
- Trace evidence
- Latent fingerprints
- Personal belongings
- Weapons
- Evidence of an altercation within the Truck
- Documentation.

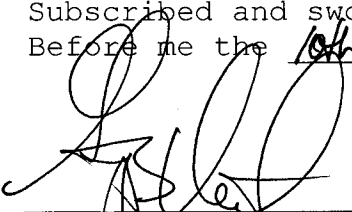
12) Based on the facts and circumstances set forth in this affidavit, this affiant submits that there is probable cause to believe that there is evidence of a crime, specifically Involuntary Manslaughter in violation of Title 18 USC, Sections 1153 and 1112 in the 2005 GMC Sierra bearing New Mexico Temporary Dealer Tags 15D305666. Based on these facts, this affiant respectfully requests that this court issue a Federal Search Warrant to search Truck.

Respectfully submitted,



Benjamin Saxey
Special Agent
Federal Bureau of Investigation

Subscribed and sworn,
Before me the 10th day of November, 2015.



United States Magistrate